IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Arbitration Petition No. 286 of 2007

Sanjay Dalmiya ..Petitioner

vs.

1. M/s Keslon Synthetics
and another ..Respondents

Mr.K.S.Tripathi for petitioner.

**CORAM: S.C.DHARMADHIKARI J**
**16th October,2007**

**P.C.**

1. The only submission made by Mr.Tripathi appearing for the petitioner before me while challenging the award, copy of which is annexed as Exhibit A, is that the award directs even the present petitioner who was at one time Director of the Company namely M/s Wild Orchid Clothing Pvt.Ltd. to pay the sums to the first respondent.

2. I have perused the subject award so also other annexures to the Arbitration Petition with the assistance of Mr.Tripathi. I have also perused the decision of the learned single Judge of Punjab and Haryana High Court reported in 1993 vol.77 Company Cases page 251 (H.S.Sidhana Vs.Rajesh Enterprises) and a decision of another learned single Judge of

Punjab and Haryana High Court in Civil Writ Petition No.2010 of 1978 decided on 5th April, 1983.

3. In my view, there is no reason to interfere with the award at this stage. The award clearly proceeds on the basis that the arbitration case was filed for recovery of the sum of Rs.6,95,005/- and further interest and arbitration cost on account of the supplies made by the first respondent company namely M/s Wild Orchid Clothing Pvt.Ltd. The same is clear from the copy of the details of the dispute (page 23-24 of petition) referred to the arbitration. Even the correspondence is with the company M/s Wild Orchid Clothing Pvt.Ltd. Invoices are also raised in the name of the said company. This is not a stage to decide as to whether the petitioner is liable to make good the claim under the award. Although the petitioner was impleaded as party and there is a communication by him to the Arbitral Tribunal, the copy of which is annexed at Exh.C, in my view, the question whether the director is liable or not would arise only if the company defaults in making the payment. The award will have to be enforced and executed against the company. In case the first respondent proceeds against the petitioner personally in execution, it

will always be open for the petitioner to raise all permissible pleas pertaining to his liability including the grounds which are set out in this petition. At that stage it would be decided as to whether the petitioner can be held liable or not. There is no reason to interfere with the subject award which is based on the claim against the company of which the petitioner was the Director.

4. Keeping all contentions open for the petitioner to be raised at the stage of execution and enforcement of the Award, the arbitration petition is dismissed.

**(S.C.DHARMADHIKARI J.)**